

## Federal Acquisition Regulation

17.504

not exist. Examples of interagency acquisitions to which the Economy Act does not apply include—

(1) Acquisitions from required or optional sources of supplies prescribed in Part 8, which have separate statutory authority (*e.g.*, Federal Supply Schedule contracts); and

(2) Acquisitions using Government-wide acquisition contracts.

[60 FR 49721, Sept. 26, 1995, as amended at 67 FR 56120, Aug. 30, 2002]

### 17.501 Definition.

*Interagency acquisition*, as used in this subpart, means a procedure by which an agency needing supplies or services (the requesting agency) obtains them from another agency (the servicing agency).

[60 FR 49721, Sept. 26, 1995, as amended at 66 FR 2129, Jan. 10, 2001]

### 17.502 General.

(a) The Economy Act authorizes agencies to enter into mutual agreements to obtain supplies or services by interagency acquisition.

(b) The Economy Act may not be used by an agency to circumvent conditions and limitations imposed on the use of funds.

(c) Acquisitions under the Economy Act are not exempt from the requirements of subpart 7.3, Contractor Versus Government Performance.

(d) The Economy Act may not be used to make acquisitions conflicting with any other agency's authority or responsibility (for example, that of the Administrator of General Services under the Federal Property and Administrative Services Act).

### 17.503 Determinations and findings requirements.

(a) Each Economy Act order shall be supported by a Determination and Finding (D&F). The D&F shall state that—

(1) Use of an interagency acquisition is in the best interest of the Government; and

(2) The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

(b) If the Economy Act order requires contract action by the servicing agency, the D&F must also include a statement that at least one of the following circumstances applies:

(1) The acquisition will appropriately be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirements of the servicing agency for the same or similar supplies or services;

(2) The servicing agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency; or

(3) The servicing agency is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.

(c) The D&F shall be approved by a contracting officer of the requesting agency with authority to contract for the supplies or services to be ordered, or by another official designated by the agency head, except that, if the servicing agency is not covered by the Federal Acquisition Regulation, approval of the D&F may not be delegated below the senior procurement executive of the requesting agency.

[60 FR 49721, Sept. 26, 1995, as amended at 67 FR 13054, Mar. 20, 2002]

### 17.504 Ordering procedures.

(a) Before placing an Economy Act order for supplies or services with another Government agency, the requesting agency shall make the D&F required in 17.503. The servicing agency may require a copy of the D&F to be furnished with the order.

(b) The order may be placed on any form or document that is acceptable to both agencies. The order should include—

(1) A description of the supplies or services required;

(2) Delivery requirements;

(3) A funds citation;

(4) A payment provision (see 17.505); and

(5) Acquisition authority as may be appropriate (see 17.504(d)).

(c) The requesting and servicing agencies should agree to procedures for the resolution of disagreements that

## 17.505

may arise under interagency acquisitions, including, in appropriate circumstances, the use of a third-party forum. If a third party is proposed, consent of the third party should be obtained in writing.

(d) When an interagency acquisition requires the servicing agency to award a contract, the following procedures also apply:

(1) If a justification and approval or a D&F (other than the requesting agency's D&F required in 17.503) is required by law or regulation, the servicing agency shall execute and issue the justification and approval or D&F. The requesting agency shall furnish the servicing agency any information needed to make the justification and approval or D&F.

(2) The requesting agency shall also be responsible for furnishing other assistance that may be necessary, such as providing information or special contract terms needed to comply with any condition or limitation applicable to the funds of the requesting agency.

(3) The servicing agency is responsible for compliance with all other legal or regulatory requirements applicable to the contract, including

(i) Having adequate statutory authority for the contractual action, and

(ii) Complying fully with the competition requirements of part 6 (see 6.002). However, if the servicing agency is not subject to the Federal Acquisition Regulation, the requesting agency shall verify that contracts utilized to meet its requirements contain provisions protecting the Government from inappropriate charges (for example, provisions mandated for FAR agencies by part 31), and that adequate contract administration will be provided.

(e) Nonsponsoring Federal agencies may use a Federally Funded Research and Development Center (FFRDC) only if the terms of the FFRDC's sponsoring agreement permit work from other than a sponsoring agency. Work placed with the FFRDC is subject to the acceptance by the sponsor and must fall within the purpose, mission, general scope of effort, or special competency of the FFRDC. (See 35.017; see also 6.302 for procedures to follow where using other than full and open competition.) The nonsponsoring agency shall pro-

## 48 CFR Ch. 1 (10-1-09 Edition)

vide to the sponsoring agency necessary documentation that the requested work would not place the FFRDC in direct competition with domestic private industry.

### 17.505 Payment.

(a) The servicing agency may ask the requesting agency, in writing, for advance payment for all or part of the estimated cost of furnishing the supplies or services. Adjustment on the basis of actual costs shall be made as agreed to by the agencies.

(b) If approved by the servicing agency, payment for actual costs may be made by the requesting agency after the supplies or services have been furnished.

(c) Bills rendered or requests for advance payment shall not be subject to audit or certification in advance of payment.

(d) If the Economy Act order requires use of a contract by the servicing agency, then in no event shall the servicing agency require, or the requiring agency pay, any fee or charge in excess of the actual cost (or estimated cost if the actual cost is not known) of entering into and administering the contract or other agreement under which the order is filled.

## Subpart 17.6—Management and Operating Contracts

### 17.600 Scope of subpart.

This subpart prescribes policies and procedures for management and operating contracts for the Department of Energy and any other agency having requisite statutory authority.

### 17.601 Definition.

*Management and operating contract* means an agreement under which the Government contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -controlled research, development, special production, or testing establishment wholly or principally devoted to one or more major programs of the contracting Federal agency.